

March 11, 2010

TO: Jennifer Williams

FROM: Teresa Parsons, SPHR
Director's Review Program Supervisor

SUBJECT: Jennifer Williams v. Department of Corrections (DOC)
Allocation Review Request ALLO-09-039

On December 1, 2009, I conducted a Director's review telephone conference regarding the allocation of your position. In addition to you, Human Resources Consultants Joanne Harmon, Melissa Bovenkamp, and Liz Lasley also participated in the Director's review conference on behalf of DOC. You also participated in subsequent Director's review conferences for the employees you supervise, and your supervisor, ESR/CC Program Manager Kimberly Acker, participated in one of the conferences as well.

Director's Determination

This position review was based on the work performed for the six-month period prior to March 10, 2008, the date DOC's Human Resources (HR) Office began reviewing your position. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Based on my review and analysis of your assigned duties and responsibilities, I conclude your position is properly allocated to the Correctional Records Supervisor classification.

Background

Your position is assigned to the End of Sentence Review (ESR) and Civil Commitment (CC) Program within the Offender Treatment and Reentry Programs Division at DOC (Exhibit B-4). On March 10, 2008, DOC's HR Office received an updated Position Description Form (PDF) for your position (Exhibit B-2). During the Director's review conference, Ms. Bovenkamp explained that the HR Office began reviewing your position, as well as the positions you supervise, around March 2008. Subsequently, the HR Office received a Position Review Request (PRR) for your position on July 1, 2008, later signed by you and your supervisor, ESR/CC Program Manager Kimberly Acker, on March 11, 2009 (Exhibit B-1). You requested

that your Correctional Records Supervisor position be reallocated to a classification in the Program Specialist or Forms and Records Analyst series. On May 1, 2009, HR Consultant Joanne Harmon determined your position was appropriately allocated as a Correctional Records Supervisor. Specifically, Ms. Harmon determined the majority of your duties and responsibilities involved supervising the ESR/CC Records Office.

On May 29, 2009, the Department of Personnel received your request for a Director's review of DOC's allocation determination. In your request, you provided a historical perspective of the positions working in the ESR/CC Records Office (Exhibits A-1 and A-3). The following includes the historical background of your work unit:

The End of Sentence Review Committee (ESRC) was established in 1989 as an interagency group reviewing and coordinating services for mentally ill and developmentally disabled offenders approaching release from DOC incarceration and needing services from the Department of Social and Health Services (DSHS). In 1990, the Community Protection Unit (CPU) was established as a result of the Community Protection Act. You indicated that the CPU was "comprised of distinct yet overlapping programs," including ESR and CC.

In 1997, a new law mandated that all sex/kidnapping offenders be leveled for community notification. The scoring tool used to determine the level of a registered sex offender required the need for additional file material pertaining to an offender's criminal history to assist in determining the level. As a result, a Correctional Records Supervisor position and subsequently Correctional Records Technician positions were added to the ESR to assist with investigation of offenders' criminal histories by setting up each offender file in preparation for review and leveling by the ESRC.

Currently, the ESRC is comprised of multiple agencies with jurisdiction over the release of sex offenders or those impacted by the release of sex offenders. The ESRC includes representatives from DOC; the Indeterminate Sentence Review Board (ISRB); and DSHS, including the Special Commitment Center (SCC), Juvenile Rehabilitation Administration (JRA), Mental Health Division (MHD), Western State Hospital (WSH), Eastern State Hospital (ESH), and the Child Study and Treatment Center (CSTC). The ESRC uses three distinct subcommittees: End of Sentence Review, Level I/Child Protective Services, and Juvenile Rehabilitation Administration.

In addition, legislation in 2001 required certain sex offenders be sentenced under the Community Custody Board (CCB) sentencing under the ISRB jurisdiction. The Joint Forensic Unit (JFU) was also established in 2002 to centralize records processing and assign forensic psychological evaluations on behalf of the various releasing agencies. DOC assumed the responsibility of investigating all sex offenders' criminal histories and requesting complete copies of all records including prosecutor records, all records of evaluation and/or treatment, the offender's version of the offense, police reports for sexually violent offenses, institutional and mental health records, child protective services records, developmental disabilities division records, and school records. In 2004, the ESR/CC Program also began responding to public disclosure requests for the Office of the Secretary. Around 2005, the CPU disbanded and the programs

under it became divided. The ESR/CC Program became part of the Offender Treatment and Reentry Programs Division.

The following summarizes your viewpoint, as well as your employer's:

Summary of Ms. Williams' Perspective

Ms. Williams asserts that positions in the Victims Services Unit, another program formerly under the CPU, had been reallocated to Program Specialist classes. As a result, Ms. Williams asserts that in May 2007, the HR Manager at that time had concerns about the duties assigned to the records positions in the ESR Program. Ms. Williams states that in April 2008, she began meeting with her new HR representative to discuss the reallocation of her position and the other positions in her unit, and in June 2008, a PRR was submitted to HR. Ms. Williams contends the ESR Program is not a Correctional Records Program and that it could be considered a stand-alone program with statewide impact. Ms. Williams asserts there are distinctions between the positions in her unit and other Correctional Records Technicians within DOC. Ms. Williams notes the positions in her unit do not calculate offenders' sentence structures. Rather, Ms. Williams contends her position serves as a liaison between the ESR and Law Enforcement Notification (LEN) programs and DOC field, institution, and records staff, as well as law enforcement agencies and the state Records Center. Ms. Williams states she is also responsible for creating the retention schedule, tracking cases, and destroying the records according to the retention schedule for ESR files created by the Records Technicians in her unit.

Although the ESR is housed within DOC, Ms. Williams contends the Correctional Records Supervisor and staff support a multi-agency committee to include technical experts that interpret and explain program specific policies, statutes, and court decisions on releasing sex offenders. Ms. Williams indicates that a variety of agencies contact the ESR program staff as a resource for sex offender issues and that the staff in her unit must have the knowledge of historical and current state and federal sex offender legislation, procedures, and policies. Ms. Williams asserts the positions in her unit research and gather documents that cannot be searched or retrieved by records staff in DOC's institutions or field offices. Ms. Williams further asserts that she works directly with the Attorney General's Office, King County Prosecutor's Office, and others to complete discovery needed for civil commitment cases. Ms. Williams asserts her position and the positions she supervises are unique and pose many issues in recruitment and retention of very knowledgeable staff. Therefore, Ms. Williams contends the duties and level of responsibilities assigned to the positions in her work unit exceed those performed by other Correctional Records Technicians.

Summary of DOC's Reasoning

DOC asserts Ms. Williams' position supervises the ESR/CC Records Office in support of the ESR/CC Program Manager. In her role, DOC states that Ms. Williams hires, trains, assigns, and audits the work of three Correctional Records Technicians and one Office Assistant 3 in the work unit. DOC acknowledges Ms. Williams' assigned work requires the use of technical expertise to interpret, explain, and ensure compliance with applicable laws, directives, rules, regulations, policies, and procedures as they relate to sex/violent offenders and the statewide

ESR/CC and LEN programs. However, DOC contends the majority of duties and responsibilities fit within the Correctional Records Supervisor job classification.

DOC emphasizes that Ms. Williams' position has been assigned the responsibility to manage a records office and supervise Correctional Records Technicians. As such, DOC asserts Ms. Williams performs and supervises the work of creating and coordinating ESR/CC offender files, ensuring the files contain all the necessary documents; reviewing documentation for accuracy; collaborating with other staff and law enforcement regarding offender records; entering information into the offender tracking database; providing technical expertise on related policies and procedures; and responding to discovery and public disclosure. DOC contends these functions support the ESR/CC Manager and the ESRC as part of records management of offender records. While DOC recognizes there are some similarities between the Correctional Records Technician classes and other classes, DOC contends the overall focus of Ms. Williams' position is to supervise Correctional Records staff working with offender records. DOC recognizes the value of Ms. Williams' knowledge and expertise; however, DOC believes Ms. Williams' position is appropriately allocated at the Correctional Records Supervisor level.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Both the PDF signed in March 2008 and the PRR signed in March 2009 describe your position's objective or purpose, in part, as follows:

Manages the End of Sentence Review/Civil Commitment Records Office, providing essential support to these programs, as well as the Law Enforcement Notification Program. Serves as Public Disclosure Coordinator for these programs, maintaining specialized knowledge regarding requests and dissemination of records under the Public Records Act and RCWs (pertaining to the release of information about sex offenders and kidnapping offenders). Coordinates records collection and processing for multi-agency Joint Forensic Unit (JFU) regarding all offenders identified for civil commitment consideration. Regularly communicates and collaborates with DOC staff, criminal justice partners, victims, citizens, and other stakeholders to enhance community safety regarding sex/registerable kidnapping offenders.

In summary, the PDF and PRR describe the majority of duties and responsibilities assigned to your position (80%) as follows:

- Supervise the End of Sentence Review/Civil Commitment Records Office, including monitoring ESRC referral status; accurate and timely file set-up, assignment, organization, updating and archiving; scanning and conversion of hard copy data to PDF, CD-rom, and imaging system; creation of and updates to JFU Master Discovery sheets; and redaction/dissemination of ESR/Civil Commitment file material.
- Support ESRC by investigating, requesting, and compiling necessary documentation for committee review and DOC law enforcement notification per RCWs. Manage records collection and dissemination for JFU, including prosecutors and outside stakeholders for offenders who are under Sexually Violent Predator civil commitment consideration. Compile Washington State Patrol Information System relative to sex offender registration and tracking of criminal history records checks. Regularly communicate with and provide information to the Attorney General's Office, King County Prosecutor's Sexually Violent Predator Unit, JFU experts, and corresponding support staff.
- Serve as liaison between the End of Sentence Review/Law Enforcement Notification Programs and DOC field, institution, public disclosure, and records staff, as well as law enforcement agencies and state records center. Use technical expertise to interpret and explain applicable laws, rules, regulations, policies and procedures. Monitor program activities for compliance and communicate with staff and outside agencies concerning interpretation and compliance pertaining to sex/violent offenders and the above programs. Independently determine eligibility and request referrals for ESRC assessment; serve as primary contact for OBTS (Offender Base Tracking System) registration screen updates.

In addition, 15% of your work assignments involve responding to public disclosure, discovery, and law enforcement dissemination requests for ESR/CC/LEN file material and redacting End of Sentence file review packets for Community Custody Board (CCB) cases.

During the Director's review conference, you explained the steps involved in processing files for the ESRC or CC. The following provides an overview of that process:

- The Offender Management Network Information System (OMNI) (formerly OBTS) generates a referral two years prior to an offender's release date, which prompts the Classification Counselors in the institutions to send the offender's information to your office. You also receive offender referrals from all other releasing agencies, for example, DSHS.
- Once the information reaches your office, clerical staff process the referrals by date stamping and verifying the current institution, earned release date (ERD) in OMNI, and type of offense. Clerical staff then enter a check date into OMNI, create the file by color code, and file the offender's ESR file in the file room or may forward to you for review.
- You assign the files to Correctional Records Technicians to begin working the file or building a file that goes to the ESRC, CC, or LEN program. This includes reviewing criminal history, requesting any additional documentation, and compiling the file for

committee review. In some cases, a file may not go forward to the ESRC, and you complete a form, which the Program Manager signs.

- If the ESRC determines a case goes to a subcommittee for civil commitment consideration, you or your staff build a file with the offender's complete criminal history obtained through a variety of criminal justice sources, including documents such as police reports and psychological evaluations.
- Your staff works with a Master Discovery sheet and provides information to the Attorney General's Office or Prosecutor's Office by scanning and putting the information on a CD.
- You also track the offender files created by your staff in the ESR/CC Program and archive or destroy records according to the records retention schedule.

You provided an ESR Referral Checklist for Records and End of Sentence Review/Law Enforcement Notification Program Process to illustrate the steps described above (Exhibits A-10 and A-11).

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

The **Program Specialist** Class Series concept reads, in part, as follows:

Positions in this series coordinate discrete, specialized programs consisting of specific components and tasks that are unique to a particular subject and are separate and distinguished from the main body of an organization. Positions coordinate program services and resources; act as a program liaison and provide consultation to program participants and outside entities regarding functions of the program; interpret, review and apply program specific policies, procedures and regulations; assess program needs; and develop courses of action to carry out program activities. Program coordination also requires performance of tasks and application of knowledge unique to the program and not transferable or applicable to other areas of the organization.

. . .

At the **Program Specialist 3** level, the definition includes the following:

Positions at this level work under general direction and typically have organization-wide program responsibility. For programs with statewide impact, incumbents are specialists who manage one component or assist higher levels in two or more components of the program. . . . Program components are comprised of specialized tasks (e.g., reservations, administration, and budget coordination) within a specialty

program. Incumbents assist higher-level staff by coordinating all aspects of program services, providing technical assistance and specialized, consultation to program participants, staff and outside entities, and recommending resolution for complex problems and issues related to the program. Incumbents assess program participants' needs and develop specialized services and training unique to the program and are responsive to the needs of participants.

I recognize your position coordinates and supervises the processes involved in collecting, compiling, verifying, and reviewing documents used to create sex offender files for review by the ESR/CC programs. I also recognize your knowledge and ability to interpret and explain related laws and policies. However, the overall focus of your work pertains to correctional records management as part of the Offender Treatment and Reentry Programs, which is not unique to DOC. While I understand you may perform similar aspects of the work described in the Program Specialist classes, the work assignments are in the context of supervising the review, verification, and processing of all records related to sex offenders nearing the end of their sentences.

The Personnel Resources Board (PRB) has previously determined that while one class appeared to cover the scope of a position, there was another classification that not only encompasses the scope of the position, but specifically encompassed the unique functions performed. Alvarez v. Olympic College, PRB No. R-ALLO-08-013 (2008). Further, the Board has consistently held that "[w]hen there is a definition that specifically includes a particular assignment and there is a general classification that has a definition which could also apply to the position, the position will be allocated to the class with the definition that includes the position" Mikitik v Depts. of Wildlife and Personnel, PAB No. A88-021 (1989). In this case, the duties and responsibilities assigned to your position fit the Correctional Records Supervisor definition and closely align with the typical work examples provided. Therefore, the Program Specialist classes are not the best fit for your position.

Similarly, the **Forms & Records Analyst** classes include assignments pertaining to records management and public disclosure. However, the records management responsibilities assigned to your position specifically fit within the Correctional Records classes, as opposed to a broader fit with the Forms & Records Analyst series. Additionally, 15% of your work involves public disclosure, while the majority of work deals with supervising the compilation, review, and dissemination of sex offender records. I also reviewed the **Program Manager A** classification. However, positions allocated to this class supervise a division of a major administrative department, operating unit or program, and plan, coordinate and implement all functions. Although you manage the correctional records portion of the ESR/CC Program, your position reports to a Program Manager with ultimate responsibility for program operations.

The **Correctional Records Supervisor** definition specifically indicates that the position "[m]anages a correctional records office and supervises at least one Correctional Records Technician 1 or 2." Your position supervises three Correctional Records Technicians and one Office Assistant 3. While not exact, the typical work examples most in line with the duties and responsibilities assigned to your position include:

- Interpreting court decisions and RCWs;

- Training staff on use of offender database systems; application of Public Disclosure laws (RCW 42.17), Criminal History Record Information laws (RCW 10.97), and implementation/revision of operational responsibilities resulting from changes in law, court decisions, administrative regulations, departmental policy, etc.;
- Reviewing and verifying all pertinent documents relative to the offender's sentence in order to prepare release documents (e.g., Notification of Release);
- Verifying Offender Based Tracking System information against source documents and resolving problems;
- Testifying in court as expert witness regarding the validity of offender records and identity.

Your work involves the review, verification, compilation, and dissemination of offender records in accordance with RCWs and agency policies, as well as reviewing and updating information in offender database systems. The focus of your work encompasses offender records management, in this case records management of sex offender files. It is clear the work you perform is very important and valued by your agency. A position's allocation is not a reflection of performance or an individual's ability to perform higher-level work. Rather, it is based on a comparison of duties and responsibilities to the available job classifications. The Correctional Records Supervisor classification best encompasses the overall scope of work and level of responsibility assigned to your position.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located at 600 South Franklin, Olympia, Washington. The main telephone number is (360) 664-0388, and the fax number is (360) 753-0139.

If no further action is taken, the Director's determination becomes final.

c: Joanne Harmon, DOC
Lisa Skriletz, DOP

Enclosure: List of Exhibits

Jennifer Williams v. Dept. of Corrections (DOC)

ALLO-09-039

List of Exhibits

A. Jennifer Williams Exhibits

1. Letter requesting a Director's Review dated May 28, 2009
2. Agency Allocation determination letter dated May 1, 2009
3. Community Protection Unit – End of Sentence Review – Civil Commitment – Joint Forensic Unit – Least Restrictive – Alternative Program
4. Letter from Richard Packard, Ph.D. to Victoria Roberts, CPU, regarding Forensic Evaluation Unit. (14 pgs) 1/27/1999
 - a) Forensic Services Unit
 - b) Post Evaluation Time
 - c) Forensic Evaluation Unit Briefing document
 - d) Memorandum – 7/25/2000 Proposed DCO/DSHS SVP Forensic Unit
 - e) Email dated march 13, 2002 JFU: Investigator Information
 - f) Letter dated January 17, 2003 Re: ISRB Records in Sex Predator cases
 - g) Memorandum of Understanding between Dept. of Social and Health Services The Office of the Attorney General.
 - h) Email dated April 14, 2003 RE: Joint Forensic Unit
 - i) Email dated October 7, 2008 with attached AGO Investigator/Analyst Class Specification 429C.
5. Community Protection Unit/End of Sentence Review Records Staff Timeline
6. Chart explaining type of document, source, and release of document
7. Position Review Request dated stamped July 1, 2008, signed March 2009
 - a. Position Description, signed March 2008
8. Organizational Chart – Offender Treatment and Reentry Programs
9. Sex offender laws and applications
10. ESR Referral Checklist for Records
11. End of Sentence Review/Law Enforcement Notification Program Process

B. DOC Exhibits

1. Position Review Request dated stamped July 1, 2008, signed March 2009
2. Position Description, signed March 2008
3. Classification Questionnaire from September 16, 2005
4. Offender Treatment and Re-Entry Programs Division Organizational Chart
5. Class Specification: Correctional Records Supervisor (112G)
6. Class Specification: Forms and Records Analyst Supervisor (112L)
7. Class Specification: Program Specialist 3 (107J)